

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

MAY 04 2015

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

(1) THOMAS GILBERT,  
PLAINTIFF,

V.

(2) MENU MAKER FOODS, INC.,  
DEFENDANT.

Case No. **15 CV - 240 JED - TW**

**JURY TRIAL DEMANDED.  
ATTORNEY LIEN CLAIMED.**

**COMPLAINT**

COMES NOW the Plaintiff, Thomas Gilbert, ("Gilbert"), by and through his attorney of record, Tim Gilpin of Gilpin Law Office, and for his Complaint against the Defendant, Menu Maker Foods, Inc., ("Menu"), states as follows:

**PARTIES and JURISDICTION**

1. Defendant, Menu, is a foreign for profit corporation doing business in the Northern District of Oklahoma;
2. Plaintiff, Gilbert, is a resident of Craig County, state of Oklahoma;
3. This Court possesses jurisdiction over this action and parties. 28 U.S.C. §1331;

**VENUE**

4. All actions about which Plaintiff complains occurred in Craig County, State of Oklahoma;

**DAMAGES**

5. This action seeks declaratory and equitable relief, economic, actual and compensatory damages in excess of \$75,000.00 against Menu, as well as liquidated damages and punitive damages for the willful or reckless disregard of the Gilbert's

Fees pd  
15summers

federal and state rights to fair employment and tort claims. Gilbert also seeks his costs and attorney's fees;

### **FACTS**

6. Gilbert began working for MENU on or about April 23, 2012;
7. On or about October 15, 2013, Gilbert was employed by MENU and suffered an on-the-job injury to his Left Shoulder, Neck and Upper Back;
8. Gilbert reported this work injury to his employer, sought and received medical treatment and pursued a state Workers' Compensation claim. (Form 3, Exhibit "A");
9. On or about July 7, 2013, Gilbert's treating physician returned him to work with temporary work restrictions. (Return to Work Form and Central States Orthopedic Specialists office note, Exhibit "B").
10. On or about July 10, 2014, MENU terminated the employment of Gilbert because it refused to accommodate his work restrictions (disability), without engaging in an interactive process, and/or because it regarded him as disabled (see Separation Notice and Oklahoma Employment Security Commission Notice of Determination, Exhibit "C");

### **COUNT I**

#### **The Americans With Disabilities Act of 1990, as amended in 2008**

For this, his first Count, Gilbert incorporates herein by reference all of the allegations heretofore made, and further alleges and states as follows:

11. The Americans With Disabilities Act, 42 U.S.C. §12112(a), as amended in 2008, (ADA), prohibits discrimination and discharge of an employee on the basis of his disability, and/or being regarded as disabled, and/or having a record of disability.

MENU's actions constitute violations of the Americans with Disabilities Act of 1990, as amended in 2008;

12. Gilbert received his "Right to Sue" from the U.S. Equal Employment Opportunity Commission, dated February 25, 2015, concerning the pursuit of her rights under Title VII (Exhibit "D");

13. Gilbert is a disabled person within the meaning of the ADA, as amended, in that he reported awareness of a serious medical condition which required medical attention and treatment rendering him, for a period of time, disabled and/or requiring Medical Leave from work, while healing and recovering;

14. Gilbert suffered from a disorder(s) related to the Left Shoulder, Neck and Upper Back and related bone, muscle, connecting tissues and nerve damage. These are significant impairments to the boney and neurological structures and had the continuing result of disabling, chronic pain. In its untreated condition, such pain significantly impaired the ability of Gilbert, in comparison to unimpaired individuals, to stand, walk, lift, sleep or engage in ordinary personal activities, since, at least, October 2013;

15. That MENU denied Gilbert the reasonable accommodation of time off work while healing and recovering from the serious medical condition and/or light or restricted work duty while still recovering and healing and/or an interactive process to determine what essential job duties he could perform with or without reasonable accommodation(s), as required under the ADA. MENU fired Gilbert because of his disability, and/or being regarded as disabled, and/or having a record of disability;

16. Gilbert's termination was directly caused by his disability and MENU's refusal of the reasonable accommodation of allowing him to be off work temporarily and/or to accommodate temporary light or restricted and/or to engage in an interactive process to determine if he could perform his essential work duties with or without a reasonable accommodation(s). MENU fired Gilbert while he was in the process of treatment for the serious medical condition and before a determination could, or should, appropriately be made as to any permanent disability or need for accommodation;

17. As a direct result of Gilbert's termination, he suffered lost income and employment benefits past, present and future and emotional distress in the form of worry, anxiety, embarrassment and similar emotions for which he is entitled to compensation. Further, MENU's actions were willful or, at the least, in reckless disregard of Gilbert's rights under the ADA. As such, Gilbert is entitled to an award of punitive damages;

WHEREFORE, the Plaintiff, Thomas Gilbert, prays for judgment against Defendant, Menu Maker Foods, Inc., on Count I in a sum in excess of \$75,000.00 representing his actual damages, back and front pay, punitive damages, plus reinstatement, attorney's fees, costs and such additional relief as the Court deems proper under Title VII of the Civil Rights Act, as amended.

**COUNT II**  
**INTENTIONAL INFLICTION of EMOTIONAL DISTRESS**

For this, his second Count, Gilbert incorporates herein by reference all of the allegations heretofore made, and further alleges and states as follows:

18. The conduct of MENU's supervisors and managers towards Gilbert was extreme and outrageous in its character. The conduct was done recklessly and intentionally while MENU and its supervisors and managers were in a position of power and authority over Gilbert. Such conduct has caused Gilbert severe emotional distress, related physical problems, including loss of weight, sleep loss, etc.,. Gilbert has suffered and continues to suffer pecuniary loss, gross humiliation, embarrassment, ridicule, shame, fright, and injury to his reputation and occupation as a result of MENU's and its supervisors and managers' actions. MENU is responsible for the conduct of its supervisors and managers under the doctrine of respondeat superior and under agency principles. MENU is also independently liable since it failed to take reasonable steps to protect Gilbert from the acts complained of herein;

WHEREFORE, the Plaintiff, Thomas Gilbert, prays for judgment against Defendant, Menu Maker Foods, Inc., on Count II, in a sum in excess of \$75,000.00 representing his actual damages, punitive damages, plus attorney's fees, costs and such additional relief as the Court deems proper.

**COUNT III**  
**Personal Rights & Malicious Wrong - 76 O.S. §6**

For this, his third Count, Gilbert incorporates herein by reference all of the allegations heretofore made, and further alleges and states as follows:

19. The conduct of MENU's supervisors and managers towards Gilbert was intentional and calculated in the ordinary course of events to damage Gilbert and was done without just cause or excuse. The intentional actions and inactions of MENU and its supervisors and managers toward Gilbert infringed upon his personal rights to

Gilbert's damage, was wrongful and constituted Malicious Conduct. Pursuant to 76 O.S. §6, Gilbert has the right of protection from harm, personal insult, defamation and injury to his personal relations;

20. The misconduct of MENU and its supervisors and managers caused injury to Gilbert's personal relations, defamed Gilbert and his reputation and constituted personal insult to Gilbert. The conduct was done purposefully while MENU and its supervisors and managers were in a position of power and authority over Gilbert. Such conduct has caused Gilbert severe emotional distress, manifesting in physical problems including loss of weight, sleep loss, etc.,. Gilbert has suffered and continues to suffer pecuniary loss, gross humiliation, embarrassment, ridicule, shame, fright, and injury to his reputation and occupation as a result of MENU's and its supervisors and managers' actions. MENU is responsible for the conduct of its supervisors and managers under the doctrine of respondeat superior and under agency principles. MENU is also independently liable since it failed to take reasonable steps to protect Gilbert from the acts complained of herein;

WHEREFORE, the Plaintiff, Thomas Gilbert, prays for judgment against Defendant, Menu Maker Foods, Inc., on Count III in a sum in excess of \$75,000.00 representing his actual damages, punitive damages, plus attorney's fees, costs and such additional relief as the Court deems proper.

**COUNT IV**  
**Negligent Hiring, Supervision & Retention**

For this, his fourth Count, Gilbert incorporates herein by reference all of the allegations heretofore made, and further alleges and states as follows:

21. Gilbert was discriminated against, intimidated and discharged in his employment with MENU as alleged above. The conduct of MENU's supervisors and managers towards Gilbert was extreme and outrageous in its character. Further, MENU was aware of, or certainly should have been aware of, the offensive actions and inactions of its supervisors and managers towards Gilbert. As Gilbert's employer, with authority over Gilbert, his supervisors and managers, MENU had the authority and duty to hire competent supervisors and managers properly trained in ADA and to supervise its supervisors and managers; further, to terminate its supervisors and managers that violated the terms and provisions of the ADA and the law applicable to the allegations contained in this Complaint. MENU violated its duty in this regard to Gilbert and he was directly damaged as a result;

22. Gilbert has suffered and continues to suffer from pecuniary loss, gross humiliation, embarrassment, ridicule, shame, fright, emotional distress, injury to his reputation, etc., as a result of the actions and inactions of MENU complained of above. Particularly, Gilbert has suffered loss of past and prospective earnings, vacation pay, sick pay, and a host of other benefits and privileges, in addition to lost wages;

WHEREFORE, the Plaintiff, Thomas Gilbert, prays for judgment against Defendant, Menu Maker Foods, Inc., on Count IV in a sum in excess of \$75,000.00 representing his actual damages, punitive damages, plus attorney's fees, costs and such additional relief as the Court deems proper.

**ATTORNEY LIEN CLAIMED  
JURY TRIAL DEMANDED**

Respectfully Submitted,

Tim Gilpin

Tim Gilpin, OBA #11844  
GILPIN LAW OFFICE  
1874 South Boulder  
TULSA, OK 74119  
(918) 583-8900 telephone  
(918) 796-5724 fax  
[timgilpin@gilpinlaw.net](mailto:timgilpin@gilpinlaw.net)  
Attorney for Thomas Gilbert

**VERIFICATION**

STATE OF OKLAHOMA    )  
COUNTY OF TULSA     } ss.

Thomas Gilbert, of lawful age, being first duly sworn upon his oath, deposes and states that he is the Plaintiff in the above Complaint, that he has read and understands the contents contained in the foregoing Complaint and further states that the same are true and correct to the best of his knowledge.

Thomas Gilbert  
Thomas Gilbert

4/14/2015  
Date

SUBSCRIBED AND SWORN to before me this 14 day of  
April, 2015.

Robin S. Lewis  
NOTARY PUBLIC

My Commission Expires:

09/10/2016





**FORM 3**Send original and 4 copies to  
Workers' Compensation CourtWORKERS' COMPENSATION COURT  
1915 NORTH STILES  
OKLAHOMA CITY, OK 73105-4918

<b>FILED</b>	THIS SPACE FOR COURT USE ONLY	
	JAN 23 2014	
	WORKERS COMPENSATION COURT TULSA	

Name of Claimant (Injured employee)  
Thomas L. GilbertName of Employer  
Graves Menu Maker Foods

Court Use Only

Berkshire Hathaway HomeServices

- ☒ Please check appropriate box
- ☒ I. Original Filing
- ☐ II. Amends Previously Filed Form 3 (must clearly state whether amendment is in addition to, or substitute for, prior information.)

EMPLOYEES FIRST NOTICE OF ACCIDENTAL INJURY AND CLAIM FOR COMPENSATION

COURT CLAIM #

2014-01105A

(Please type or print)

NOTE: A voluntary Mediation Program to address certain workers' compensation disputes is available through the Workers' Compensation Court. For information, call (405) 522-8760 or (800) 522-8210.

EMPLOYEE NAME (Last, First, Middle): Gilbert, Thomas L.		Social Security #: [REDACTED]	Phone: 918-[REDACTED]
Mailing Address (Include City, State, & Zip): 443742 East 340 Rd. Vinita Oklahoma 74301		Date of Birth: [REDACTED]	Age: 44 Years Sex: Male
Occupation: Driver	Was your employment agreement in Oklahoma? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Avg. Weekly Wage: 812.50	Length of Employment: years 1 months 6 weeks
Date of Accident or Last Exposure: 10/15/2013	Injury resulted from: Single Incident <input checked="" type="checkbox"/> Cumulative Injury <input type="checkbox"/>	Time Injury Occurred: 5:00 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	
Describe parts of the body injured or affected: Left Shoulder, Neck, Upper Back		Place of Injury: City/County/State Vinita Craig Oklahoma	
What is the nature of the injury or illness: Left Shoulder Rotator Cuff Tear, Disc Injury Neck & Upper Back	Describe with details how the injury occurred. Include object or substance which directly injured you: On 10/7/13, I was unloading a dolly from the truck. When I pulled it out from the truck I felt pain in my left shoulder. On 10/15/13, there was an item wedged between the wall, I pulled the item to un-wedge it and I felt a pull to my left shoulder again and additional pain in my neck going down my left arm and my upper back.		
Treating Physician (full name): James Cash, M.D.	Address: 6585 South Yale	City: Tulsa	State: OK Zip: 74136
Employer: Graves Menu Maker Foods	Employer's FEI # (Federal ID Number): 918-256-3355		Telephone: 918-256-3355
Complete Mailing Address: 100 Eagles Nest Rd.	City: Vinita	State: Oklahoma	Zip: 74301
Complete Mailing Address (if different from above):	City:	State:	Zip:

Are you a previously impaired person due to a prior workers' compensation injury or obvious and apparent pre-existing disability? If "YES", you may be entitled to benefits for combined disabilities. Any claim made for benefits must be commenced by the filing of a "Form 3-E" or "Form 3-F", as appropriate, with the Workers' Compensation Court.

Any person receiving temporary disability benefits from an employer or the employer's insurance carrier shall promptly report in writing to the employer or insurance carrier any change in a material fact or the amount of income the employee is receiving or any change in the employee's employment status, occurring during the period of receipt of such benefits.

I declare under penalty of perjury that I have examined this notice and claim, and all statements contained herein, and to the best of my knowledge and belief, they are true, correct and complete.

Any person who commits workers' compensation fraud, upon conviction, shall be guilty of a felony.

JAN 31 2014

Law Office of Bryce A. Hill

Name of claimant's attorney if represented:

Type or Print Name of Attorney: Bryce A. Hill OBA# 11346
Mailing Address: 1511 South Delaware Avenue
City: Tulsa State: Oklahoma Zip: 74104-5234
Telephone # (918) 584-2889

Upon filing this Notice of Accidental Injury And Claim For Compensation, permission is given to the Administrator of the Workers' Compensation Court, the Insurance Commissioner, the Attorney General, a district attorney or their designees to examine all records relating to the notice. The permission granted to the above named individuals or their designees authorizes them access to medical records pursuant to Section 19 of Title 76 of the Oklahoma Statutes, including waiver of any privilege granted by law concerning communications made to a physician or health care provider or knowledge obtained by such physician or health care provider by personal examination.

Signed this \_\_\_\_\_ day of \_\_\_\_\_

Thomas L. Gilbert

Signature of Claimant (must be signed by claimant)

This form is not intended for use as a medical authorization.

Nothing shall be construed to waive, limit or impair any evidence

09/03

Signature of Attorney for Claimant

ATTORNEY'S LIEN CLAIMED

**EXHIBIT "A"**



☒ 6475 South Yale Avenue, Suite 301  
NATALIE MEDICAL BUILDING  
Tulsa, Oklahoma 74136-1902  
Telephone: (918) 494-9300

☐ 1110 West Will Rogers Blvd.  
Claremore, OK 74017  
Telephone: (918) 341-0600

☐ 1130 E. Lansing  
Broken Arrow, OK 74012  
Telephone: (918) 994-4498

☐ 13720 E. 86th St. N., Suite 100  
Owasso, OK 74055  
Telephone: (918) 272-8516

THORNTON  
C-MR1

## ON THE JOB RESTRICTIONS - Work / School / P.E. / Home

PATIENT NAME: Thomas Gilbert ACCT. #: 1074000 DATE: 7/7/14

☐ Did not show for appointment ☐ Cancelled appointment ☒ Return appointment

DX: (L) Cervicothoracic & Scapulothoracic pain

### WORK / SCHOOL / P.E. STATUS:

☐ Is injury Work related? ☐ Yes ☐ No ☐ DISMISSED FROM ACTIVE MEDICAL CARE  
☐ No Work / School / P.E. at this time ☐ REACHED MAXIMUM MEDICAL IMPROVEMENT  
☐ Released to: Work / School / P.E. without restrictions effective: \_\_\_\_\_  
☐ May return to: Work / Home / School / P.E. on: \_\_\_\_\_ with the following restrictions: \_\_\_\_\_

### RESTRICTIONS:

☐ LEFT ☐ RIGHT

☐ No Use of: ☐ Upper Extremity / Hand ☐ Lower Extremity  
☐ Hand duty only ☐ No use of hand above shoulder ☐ No overhead activities ☐ No Push / Pull  
☒ No lifting or carrying over 15-20 pounds ☐ No repetitive lifting over \_\_\_\_\_ pounds  
☐ No repetitive activities over \_\_\_\_\_ hours a day  
☐ Must wear cast / splint / brace: ☐ All the time OR ☐ Occasionally: (define) \_\_\_\_\_  
☐ No driving ☐ Do not operate machinery ☐ No use of vibrating tools  
☐ No prolonged standing for more than \_\_\_\_\_ minutes at any one time w/o \_\_\_\_\_ minutes of sitting  
☐ No prolonged sitting without a \_\_\_\_\_ minute break per \_\_\_\_\_ shift  
☐ Kneeling: ☐ Never ☐ Occasionally (1-33%) ☐ Frequently  
☐ Squatting: ☐ Never ☐ Occasionally (1-33%) ☐ Frequently  
☐ Stooping: ☐ Never ☐ Occasionally (1-33%) ☐ Frequently  
☐ Bending: ☐ Never ☐ Occasionally (1-33%) ☐ Frequently  
☐ No climbing: ☐ Ladder ☐ Stairs  
☐ Sit down job only  
☐ May work \_\_\_\_\_ hours a day  
☒ If restrictions cannot be accommodated, the patient should be considered temporarily totally disabled  
☐ Return to Work - No Restrictions Date: \_\_\_\_\_  
☐ OTHER: \_\_\_\_\_

Referred to: ☐ Physical Therapy ☐ Surgery ☒ Testing  
The above restrictions are: ☐ Temporary ☐ Permanent  
Length of restrictions: ☐ Weeks ☒ Until next visit ☐ Other: \_\_\_\_\_  
Patient should make next appointment for: \_\_\_\_\_ Week: \_\_\_\_\_ Month: OR \_\_\_\_\_

REMARKS: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_  
(Physician)

.07/12

# EXHIBIT "B"



**EOOC Tulsa**  
6475 S Yale Ave. Suite 301,  
Tulsa, OK, 74136  
(918) 494-9300

**EOOC MRN**  
674000

**Encounter Date**  
07/07/2014 9:00AM

**Patient Information**  
**THOMAS GILBERT**  
443742 E 340 RD  
VINTIA, OK 74301  
44 years old  
DOB - [REDACTED]  
(H) (918) [REDACTED]  
(W)

**Employer GRAYS MENU MAKER**  
**Date of Injury 10/7/2013**

#### **History of Present Illness**

Patient presents today with pain in his left scapulothoracic region since October of 2013. He reports injuring it while moving a dolly and he reports subsequent reinjury shortly thereafter. He says he is continuing to have problems with this and it radiates from his neck into the back of his left shoulder. He says he initially was getting some numbness and tingling into his left arm, but this subsided with acupuncture according to the patient. He has not been working for some time now and he says this affects him with evening remedial work at home. He says he feels this is not coming from his shoulder, but is coming from his spine and would like further workup. physical therapy

**Chief Complaint** Neck Pain/ Problem, Shoulder Pain/ Problem, Back Pain/ Problem

**Location of Pain:** Neck Shoulder Left Upper Arm Left

**Current Pain Level:** 6 out of 10

**Quality of Pain:** aching, burning, swelling

**Timing of Pain (when it started)** Pain started within the last 6-12 months.

**Duration of Pain (how long it lasts):** Continuous

#### **Review of Systems**

**General Health:** Good.

**Constitutional:** trouble sleeping.

**Skin:** No skin issues.

**Eyes:** No eye issues.

**Ears, Nose and Throat:** caps.

**Endocrine Problems:** No endocrine issues.

**Allergy:** No allergy issues.

**Cardiovascular:** No cardiovascular issues.

**Respiratory:** No recent respiratory issues.

**Gastrointestinal:** No gastrointestinal issues.

**Patient:** THOMAS L. GILBERT  
**Encounter:** Jul 7 2014 9:00AM

**EOOC MRN:** 674000

Kidney/ Bladder No genitourinary issues.  
Gynecological:  
Not Currently Pregnant.  
Bone Marrow: No bone marrow issues.  
Neuromuscular: No neuromuscular issues.  
Psychiatric: No psychiatric issues.

**Past Medical History**

- History of Asthma 493.90

**Social History**

- Former Smoker V15.82
- History of Marital History - Divorced V81.03
- History of Occupation: Outdoor Worker
- Denied**
- Alcohol Use

**Current Meds**

- Aleve 220 MG Oral Capsule; Therapy: (Recorded:19May2014) to

**Allergies**

- Bee sting

**Vitals**

**Vital Signs [Data Includes: Current Encounter]**

**07Jul2014 09:34AM**

**Systolic: 141**

**Diastolic: 98**

**BMI Calculated: 29.02**

**BSA Calculated: 1.83**

**Height: 5 ft 4 in**

**Weight: 170 lb**

**Physical Exam**

**Physical Exam**

On exam today, the patient does demonstrate full range of motion of his left shoulder both in forward flexion abduction as well as internal and external rotation. His rotator cuff strength is symmetrical in both upper extremities. He has negative impingement tests including Hawkins and Neer's. Evaluation of the cervical spine shows mild restriction especially with side bending and rotation to the right. He is tender along the left lower paraspinal musculature. He is also tender over the left upper scapular thoracic border, although, I do not appreciate a great degree of dyskinesia with range of motion testing. He is nontender in the midline of his upper thoracic spine. Distally his strength, sensation and reflexes were symmetrical in both upper extremities.

**Diagnostics**

Plain films taken today of the cervical spine demonstrated multilevel degenerative changes most notably at C6-C7 with endplate changes, osteophyte formation and disc space narrowing.

**Impression/ Assessment**

Left-sided scapulothoracic pain with possible referring source to his cervical or thoracic spine.

**Plan:**

I think it would be reasonable to get an MRI of his cervical spine and his thoracic spine. I placed him on weight restrictions. These include 15-20 pounds lifting and carrying. I will see him back after the studies are completed.

This report is submitted, in my medical opinion with a reasonable degree of medical certainty. I declare under penalty of perjury that I have examined this report and all the statements contained herein and to the best of my knowledge and belief, they are true, correct and complete.

**Patient:** THOMAS L. GILBERT  
**Encounter:** Jul 7 2014 9:00AM

**EOOC MRN:** 674000

**CC:** JACQUE BRAWNER  
BRYCE HILL

**Plan**

1. Mri Cervical Spine
2. Mri Thoracic Spine
3. X-Ray Cervical Min 4 Views Done: 07Jul2014

**Signatures**

Electronically signed by : Ryan Pitts, ; Jul 7 2014 6:06PM (Author)

Jul. 22. 2014 11:30AM

FORTUNE BUSINESS

No. 9539 P. 3/3



RECEIVED

## SEPARATION NOTICE

CLIENT NAME: Menu Maker Tools Inc DATE: 7-10-14EMPLOYEE NAME: GILBERT, THOMAS SS# 449388

ADDRESS: \_\_\_\_\_

HIRE DATE: \_\_\_\_\_ TERMINATION DATE: 7-10-14

DEPARTMENT: \_\_\_\_\_ POSITION: \_\_\_\_\_

We ask for your address for the purpose of mailing your final check, W-2, &amp; COBRA notifications.

**Voluntary** (Attach letter of resignation and check all that apply)

- ☐ No Reason Given      ☐ Retirement      ☐ Job Abandonment  
☐ Relocation      ☐ Personal      ☐ No Show/No Call  
☐ Job Opportunity      ☐ Return/Attend School      ☐ Other (please give details below)  
☐ Work Environment      ☐ Dissatisfied  
☐ Job Requirement Change

**Involuntary** (Attach record(s) of counseling and check all that apply)

- ☐ Absenteeism      ☐ Failure to Follow Instructions      ☐ Inappropriate Conduct  
☐ Tardiness      ☐ Failure to Meet Job Standard      ☐ Gross Misconduct  
☐ Violation of Safety Policy      ☐ Violation of Company Policy      ☐ Other (please give details below)  
☐ Falsification      ☐ Failed Probationary Period  
☐ Insubordination

**Layoff** (Check all that apply)

- ☐ Lack of Work      ☐ Location Closed      ☐ Other (please give details below)  
☐ Job Elimination      ☐ Seasonal Employment

CD. UNABLE TO ACCOMMODATE  
 PERMANENT WORK RESTRICTIONS  
 AFTER RELEASE WORK COMP.

**EMPLOYEE ACKNOWLEDGEMENT**

By my signature below, I certify that I have not been injured during my work shift(s), nor have I witnessed an accident resulting in injury to someone else during my employment.

EMPLOYEE SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

- ☐ Employee was not available to sign.      ☐ Employee refused to sign.

Did you notify your Human Resources/Department prior to taking separation action? ☐ Yes ☐ No

MANAGER SIGNATURE [Signature]

WITNESS SIGNATURE \_\_\_\_\_

**FOR COMPANY USE ONLY**

Compensation Type	Date To Be Paid	Period Covered	Amount Paid (Gross)
Vacation			\$
Severance			\$
In-Lieu-Of-Notice			\$

Separation Notice  
 Rev. 05/2008

Fortune Business Solutions

**EXHIBIT "C"**



<https://docushare.oesc.state.ok.us/docushare/dsweb/Get/Document-14584777...> 8/8/2014

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Thomas L. Gilbert  
443742 E. 340 Rd.  
Vinita, OK 74301

From: Oklahoma City Area Office  
215 Dean A. McGee Avenue  
Suite 524  
Oklahoma City, OK 73102



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

564-2014-01263

Marilyn S. Koshiway,  
Investigator

(405) 231-4359

(See also the additional information enclosed with this form.)

## NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)



More than 180 days have passed since the filing of this charge.



Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.



The EEOC is terminating its processing of this charge.



The EEOC will continue to process this charge.

**Age Discrimination in Employment Act (ADEA):** You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:



The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.



The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

**Equal Pay Act (EPA):** You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Enclosures(s)

*Marilyn S. Koshiway*  
Holly Waldron Cole,  
Area Office Director

February 25, 2015

(Date Mailed)

cc: Clifford W. Cornwell  
Attorney  
BROWN CORNWELL FARROW LLC  
601 Monroe Street, Suite 304  
Jefferson City, Missouri 65101

Timothy S. Gilpin  
Attorney  
GILPIN LAW OFFICE  
The Riverpark Building  
1874 South Boulder

Gilpin Law Office  
MAR 2 RECD  
RECEIVED 2015

EXHIBIT "D"